

FCC Received August 2, 1993 @ 3:25 p.m.

Alma A. Bradshaw

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TRANSCRIPT OF PROCEEDINGS

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

AUG 16 1993

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In Re Applications of:

MOONBEAN, INC.

MM DOCKET NO. 93-42

GARY E. WILLSON

Calistoga, California

DATE OF HEARING: July 22, 1993

VOLUME: 3

PLACE OF HEARING: Washington, D.C.

PAGES: 171-270

**FREE STATE REPORTING, INC.
Court Reporting Depositions
D.C. Area (301) 261-1902
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MOONBEAN, INC.)

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GARY E. WILLSON)

Calistoga, California)

The above-entitled matter come on for hearing pursuant to Notice before Judge Edward Luton, Administrative Law Judge, at 2000 L Street, N.W., Washington, D.C. in Courtroom No. 4, on Thursday, July 22, 1993 at 9:35 a.m.

APPEARANCES:

On behalf of Gary E. Willson:

JAMES A. GAMMON, Esquire
 A. WRAY FITCH, III, Esquire
 Gammon & Grange, P.C.
 8280 Greensboro Drive
 McLean, Virginia 22102-3807

(703) 761-5000

On behalf of Moonbeam, Inc.:

LEE W. SHUBERT, Esquire
 SUSAN ROSENAU, Esquire
 Haley, Bader & Potts
 4350 North Fairfax Drive
 Arlington, Virginia 22203-1633

(703) 841-2345

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I N D E X

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Gary E. Willson				
By Mr. Fitch	179		262	
By Mr. Shubert	180 (Voir Dire)			
By Mr. Shubert		219		266

E X H I B I T S

<u>Willson Exhibits</u>	<u>Identified</u>	<u>Received</u>	<u>Rejected</u>
No. 1	179	218	
<u>Moonbeam Exhibits</u>			
No. 3	242	242	
No. 4	244	252	

Hearing began: 9:35 a.m.

Hearing Ended: 12:10 p.m.

P R O C E E D I N G S

JUDGE LUTON: We will continue this morning -- we will start this morning with the direct case of Mr. Willson. Before we do, I want to ask if there are any preliminary matters to take care of?

MR. GAMMON: Just one, Your Honor, from our side.

JUDGE LUTON: Yes.

MR. GAMMON: Yesterday in the record there was perhaps a little uncertainty or confusion with respect to the Marinship Yacht Harbor, Sausalito, California address as a business address for Constant Communications, Mr. Constant's company. I've got the Broadcast Yearbook from 1989. I just excerpted a page from it which shows that that is the listing the Broadcasting Yearbook has for it. If I could have that page identified as Willson Exhibit No. 6, Your Honor? I'll give two copies to the reporter and copies to you and counsel. It's page A-41 from the 1989 Yearbook under the heading Group Ownership, and I'm only referencing the, the material under the heading Constant Communications Co. Stns. which shows the Marinship Yacht Harbor address and I would ask Your Honor to take official notice of that. I have no questions of the witness or anything on it, but just to complete the record.

MR. SHUBERT: Your Honor, I'll object to this, if I may. One, if there were applications -- if there were licenses involved, there are records in the Commission's

1 files. The records in the Commission's file are going to be
2 much more accurate than this document from Broadcasting
3 Yearbook. I've got no problem with notice of the Commission's
4 records and files generally. I mean, we don't necessary
5 dispute the address, but submitting this document for notice,
6 one, it doesn't meet the criteria under the Federal rules for
7 notice and, two, there are -- there is better evidence.

8 MR. GAMMON: Your Honor, it hasn't been disputed. I
9 don't think it's disputable, but many times in the
10 Commission's hearings we take official notice of Broadcast
11 Yearbook. If, if this is totally inaccurate, and no one says
12 it is, there could be a response anytime before the record is
13 closed.

14 MR. SHUBERT: Just use the Commission's records.

15 MR. GAMMON: This is a shorthand way to establish
16 this. I would have thought the witness can tell us right off
17 the bat since she officed there, but she couldn't quite tell
18 us that.

19 JUDGE LUTON: What is the confusion that this is
20 intended to overcome? I don't recall it.

21 MR. GAMMON: The witness yesterday was just unable
22 to categorically state yes, the Constant Communications -- Mr.
23 Constant's communications company, headquartered at this same
24 address where she was at her office, and so this just clears
25 it up.

1 JUDGE LUTON: Did I understand Mr. Shubert to say
2 that you don't necessarily -- this is, Moonbeam doesn't
3 necessarily dispute the fact that's purported to be stated
4 here, but that Mr. Gammon is, in your view, going about it the
5 wrong way? Is that what you're saying?

6 MR. SHUBERT: I would -- first of all, the question
7 is relevancy for starters but, secondly, he's going about it
8 the wrong way because this document does not meet the levels
9 that must be met for official notice. Secondly, the FCC
10 records do meet that level and I've got no problem with saying
11 let's look at the FCC records and see what they say.

12 JUDGE LUTON: It doesn't really seem like much of a
13 dispute. Can't counsel agree about what's, what's correct
14 here? Do the records say the same thing that's here? If they
15 do, I don't --

16 MR. SHUBERT: Your Honor, it doesn't relate to
17 correctness per se. It relates to --

18 JUDGE LUTON: Well, what does it have to do with?

19 MR. SHUBERT: This document, in moving -- I mean, we
20 can move all sorts of things in if we simply say that they're
21 somehow relevant.

22 MR. GAMMON: Your Honor --

23 MR. SHUBERT: I mean, that's not the point of
24 evidence. Evidence is -- even for notice has got to meet a
25 higher test than that.

1 JUDGE LUTON: Well, I was asking about the first
2 prong of your objection and you nailed me with the second
3 prong, relevance. The first one I thought was a fairly
4 technical one, namely that there is better evidence and this
5 is a document for which official notice can properly be taken,
6 and the second one was that the document was not relevant.
7 When I asked you about the first one, I don't think you
8 answered me. If we -- well, what is the relevance of this,
9 Mr. Gammon?

10 MR. GAMMON: Well, Your Honor, a sub-issue in the
11 case is the relationship of Frederick Constant to this
12 application, especially in light of the diversification
13 question that has now come to the case, and the fact that this
14 witness who testified -- whatever she did testify about
15 Frederick Constant and her communications about this
16 application and matters pertinent to this application and I
17 really, after hearing it yesterday and listening as carefully
18 as I can, I'm going to have to see the transcript to find out
19 what she did say. But it was very confusing. I think there
20 might have been one oblique reference or two as to all of
21 these conversations. They live in the same house and they
22 discussed these matters, but she couldn't really recall any of
23 them. Now here we find out his office and hers were the same.

24 JUDGE LUTON: Does that really add anything to --
25 their home addresses are the same, too. She's testified that

1 she talks with her husband frequently every day about all
2 kinds of things. His business address showing that it is the
3 same as hers --

4 MR. GAMMON: Just one more, one more link.

5 JUDGE LUTON: -- doesn't add quite, quite a lot it
6 seems to me.

7 MR. GAMMON: It doesn't add a lot. It just adds
8 something when you add it to the other material in the pile,
9 Judge. For whatever it's worth, I'm just offering it.

10 MR. SHUBERT: May I be heard, Your Honor?

11 JUDGE LUTON: No. I'm going to reject this. I
12 think it's of dubious relevance.

13 MR. GAMMON: May it go forward as my offer of proof,
14 Your Honor?

15 JUDGE LUTON: It may certainly.

16 MR. GAMMON: Thank you very much.

17 JUDGE LUTON: Any other preliminary matters? All
18 right. If Mr. Willson will take the stand, we'll proceed.

19 MR. FITCH: Your Honor?

20 JUDGE LUTON: Yes.

21 MR. FITCH: First, I -- before I move to identify
22 Willson Exhibit 1, let me do this. Let me explain what, what
23 I'm doing here. I filed an erratum to the direct case on July
24 14th --

25 JUDGE LUTON: All right.

1 MR. FITCH: -- and I noted a change to the first two
2 sentences on page 8, Exhibit 1. I have revised Exhibit 1,
3 page 8 to include the changes referenced in the erratum. I
4 have provided opposing counsel a new substituted Exhibit 1,
5 page 8. I will provide Your Honor a new substituted Exhibit
6 1, page 8.

7 JUDGE LUTON: Thank you.

8 MR. SHUBERT: Counsel, could we trouble you for
9 another copy? It seems to have gotten -- oh, wait a minute.
10 Here it is. I'm sorry.

11 MR. FITCH: I'm glad you found it. I just gave my
12 last one out. The copies that I have for the court reporter
13 include the corrected page 8 which I have provided Your Honor
14 and opposing counsel.

15 JUDGE LUTON: You may proceed.

16 MR. FITCH: All right. So, Your Honor, I would then
17 with the revised page 8 go ahead and mark for identification
18 Willson's Exhibit 1 which is a nine page exhibit with an
19 attached declaration entitled "Written Direct Case Exhibits of
20 Gary E. Willson."

21 JUDGE LUTON: All right, 1 for identification. It's
22 marked and it's offered. Is that right?

23 MR. FITCH: Let's --

24 JUDGE LUTON: Oh, yeah. All right.

25 MR. FITCH: -- do a little bit of preliminary

1 questioning of Mr. Willson.

2 JUDGE LUTON: Yes, of course.

3 (The document that was referred to
4 as Willson's Exhibit No. 1 was marked
5 for identification.)

6 Whereupon,

7 GARY E. WILLSON

8 was called as a witness and, after having first been duly
9 sworn, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. FITCH:

12 Q Mr. Willson, have you reviewed your -- what has been
13 marked for identification as Willson Exhibit 1 --

14 A Yes.

15 Q -- that is before you? Are there any other
16 corrections that you wish to make at this time?

17 A No.

18 Q Well, let me refer you to Exhibit 1, page 2, the
19 first line.

20 A Oh, yes. Right. The first line says, "Fairfax
21 County, California." There should be no county. It's
22 Fairfax, California.

23 Q Okay.

24 A Delete County.

25 Q All right. With that change do you adopt this

1 Exhibit 1 as your direct testimony in this case?

2 A Yes, I do.

3 Q Believing it to be true and correct to the best of
4 your knowledge and belief?

5 A Yes, it is.

6 MR. FITCH: Your Honor, I've provided the court
7 reporter with the original and one copy of Exhibit 1 and at
8 this point I move it into evidence.

9 JUDGE LUTON: All right. All right. Objections?

10 MR. SHUBERT: May I ask some voir dire --

11 JUDGE LUTON: Yes.

12 MR. SHUBERT: -- before I pose an objection, Your
13 Honor?

14 JUDGE LUTON: Yes.

15 BY MR. SHUBERT:

16 Q Mr. Wilson, you are an individual applicant? Is
17 that correct?

18 A Yes.

19 Q Do you have any partners in this application?

20 A No.

21 Q Is Mr. Fitch a partner in your application?

22 A No.

23 Q Does he have any ownership interest in your
24 application?

25 A No.

1 Q Is there any kind of contingent fee arrangements
2 that might give him a future equity interest in the
3 application?

4 MR. FITCH: Your Honor, what, what is the purpose of
5 this voir dire?

6 MR. SHUBERT: It's going to be ultimately and
7 essentially apparent immediately.

8 JUDGE LUTON: Does it have to do with the competency
9 of the witness to go check on the testimony or are you cross-
10 examining?

11 MR. SHUBERT: It has to do with the admissibility of
12 Hearing Exhibit No. 1. I submit, Your Honor, I object to
13 Exhibit No. 1 --

14 JUDGE LUTON: All right. Let -- go ahead. I won't
15 --

16 MR. SHUBERT: -- on the ground --

17 JUDGE LUTON: I won't require you to tip your hand.
18 I'm going to let you go ahead.

19 MR. SHUBERT: I've finish the questioning. I'm to
20 the point now where --

21 JUDGE LUTON: Oh, you're making an objection now?

22 MR. SHUBERT: I'm posing the objection right now.

23 JUDGE LUTON: All right.

24 MR. SHUBERT: Actually I have one other question to
25 ask.

1 BY MR. SHUBERT:

2 Q Mr. Willson, and I'll make a copy available for
3 counsel, here is a copy of your integration statement that was
4 filed on April of 1992, or let me put it this way, an
5 integration statement executed by Mr. Fitch. If I can direct
6 your attention to the last page of this document, is that
7 integration statement signed by you, sir?

8 A No.

9 Q Who signed that integration statement?

10 A Wray Fitch.

11 Q Mr. Fitch does -- has no interest in your
12 application as an owner? Correct?

13 A No.

14 Q Subsequently by a document dated April 7th an
15 amendment was submitted to that integration statement. Was
16 that amendment signed by you, sir?

17 A No.

18 Q Who signed that amendment?

19 A Wray Fitch.

20 Q Another subsequent amendment was filed on April 15,
21 1993. Did you sign that amendment?

22 A No.

23 Q Who signed that amendment?

24 A Wray Fitch.

25 MR. SHUBERT: Your Honor, I'm going to object to

1 Exhibit No. 1 in its totality on the grounds that procedurally
2 if you look at the -- and, more importantly, if you go back
3 and look at the Report and Order that came out on the revised
4 procedures, applicants are to provide the integration
5 statements. The essence of a comparative case is contained in
6 the integration statement. Since the applicant in this
7 proceeding, as we have just established, did not file the
8 integration statement, but someone filed it on behalf of the
9 applicant, someone who could not sign an application except
10 under extraordinary circumstances, nor could they sign an
11 amendment to the application, nor could they sign the direct
12 case, submitted the integration statement in this case. Since
13 the applicant has not submitted an integration statement, the
14 direct case has to be at variance to it and, therefore, is
15 admissible.

16 JUDGE LUTON: That's an interesting argument, Mr.
17 Shubert. You say that under the revised rules there is some
18 requirement somewhere that an integration statement be
19 executed personally by the applicant. Where is that?

20 MR. SHUBERT: The plain language, and I will cite
21 you to 6 FCC Record 157 is where the order is first reported.
22 At paragraph 27 it says, "The HDO will also require applicants
23 to file and exchange," not file on behalf of applicants. The
24 applicants are to file.

25 MR. FITCH: Your Honor --

1 JUDGE LUTON: I suppose there is -- well, I'm sure
2 there is room under that language for the interpretation which
3 you press.

4 MR. SHUBERT: May I --

5 JUDGE LUTON: Mr. Shubert.

6 MR. SHUBERT: Excuse me, sir.

7 JUDGE SHUBERT: But it has -- and some of the judges
8 do require that integration statements be personally executed
9 by the applicants themselves. It has always been my practice
10 and it continues to be my practice that counsel may execute an
11 integration statement on behalf of an applicant with the
12 understanding if the condition -- upon the condition, I should
13 say, that the applicant is bound absolutely by whatever those
14 representations may be that are submitted on his behalf. I
15 don't think, I don't think the offering is infirm on the basis
16 that you state.

17 MR. SHUBERT: May I note -- direct your attention to
18 rules 73.3513, paragraph (a) reads, "Applications, amendments
19 thereto and related statements of fact required by the FCC
20 must be signed by the following persons: (1) an individual
21 applicant, the applicant, if the applicant is an individual.

22 JUDGE LUTON: Respond, Mr. Willson?

23 MR. FITCH: Your Honor, this -- first of all,
24 there's no case precedent that holds this. Your Honor has
25 just stated his practice and it is the practice of many other

1 Administrative Law Judges to accept integration statements
2 signed by counsel. There is no surprise here. There is no --
3 the whole purpose of an integration statement is to let
4 opposing counsel know what the case is to be. To make this
5 argument, it's a technical argument that has no bearing on, on
6 the qualifications or on the comparative merits of this
7 applicant. To, to dismiss or to fail to consider Willson's
8 direct case on these grounds would clearly be error.
9 Furthermore, there have been a series of cases recently out of
10 the Commission which have, which have held that direct cases
11 -- that specified, for instance, a number of hours that an
12 applicant would work at a station when it hadn't been
13 specified in a diversification statement and vice versa was
14 perfectly acceptable, and the Commission made the point that
15 it is not concerned with technicalities. It is concerned with
16 unfair advantage. And here there has been no unfair
17 advantage. The unfair advantage here is opposing counsel
18 attempting to strike an entire exhibit on a technicality which
19 doesn't exist. I don't believe that the language in that
20 Report and Order -- it does not specifically say that an
21 applicant must sign.

22 JUDGE LUTON: I'm prepared to rule and I rule as
23 follows: The integration statement is Mr. Willson's. It is
24 his from the time that it was submitted on his behalf by his
25 counsel in this case and the fact that Mr. Willson himself

1 didn't personally sign that statement, in my view, is of no
2 moment. The objection is overruled. Other objections?

3 MR. SHUBERT: If I may just note exception to your
4 ruling is all, for the record, Your Honor.

5 JUDGE LUTON: Of course.

6 MR. SHUBERT: If I may, Your Honor, directing the
7 Court's attention to page 1 of Exhibit 1, at the bottom
8 paragraph on that page the sentence starts, "The Speed-Dee
9 laundries are currently both for sale and will be sold." I
10 object to 'will be sold' on the grounds it is speculative.

11 MR. FITCH: May I respond, Your Honor?

12 JUDGE LUTON: All right.

13 MR. FITCH: Your Honor, this is -- this language is
14 in here because the Commission requires an applicant to
15 specify what his intentions are with respect to current
16 business interests. That is exactly what this applicant has
17 done. It's speculative to state in a, in a hearing exhibit
18 that one will dispose of another broadcast interest, but it is
19 a requirement that, that such -- that an applicant state such
20 a thing if he does not or she does not intend to be hit with a
21 diversification --

22 MR. SHUBERT: Stating intention is different than
23 stating a fact that they will be sold. We don't know that
24 there is a market there for those properties. They're two
25 different elements.

1 JUDGE LUTON: Well, this doesn't seem to be
2 speculative in the sense that Mr. Willson has no control over
3 what he asserts will happen and it's certainly no more
4 speculative than an applicant, as they usually do in these
5 cases, promising to work full time, at least 40 hours a week,
6 in a managerial position at the station. That's speculative,
7 I suppose, as well, is it not, but don't we accept that kind
8 of speculation, if we call it speculation?

9 MR. SHUBERT: Well, again, Your Honor, one is
10 intention. What -- the person intends to do something. I've
11 got no problem with him saying he intends to sell it, but
12 saying they will be sold --

13 JUDGE LUTON: Oh, I think it says no more than he
14 intends to sell it. That's -- well, the future isn't here
15 yet. Of course it expresses an intention only. It's not an
16 accomplished fact yet. It only expresses an intention. I
17 think this objection is really putting too fine a point on
18 what's stated there. It simply expresses his intention,
19 doesn't it? It will be sold. He intends to sell it. Hasn't
20 happened yet. Same thing I think. That's the way I view it.

21 MR. SHUBERT: I'll go with your ruling, Your Honor.
22 I'm not going to accede to your logic, I can tell you that.

23 JUDGE LUTON: You don't have to so long as my ruling
24 moves us along. Objection's overruled.

25 MR. SHUBERT: Your Honor, I will object to lines 1

1 and 2 on the top of page 2, that Mr. Willson owned the laundry
2 in Fairfax, California which he sold in 1990. I object to it
3 on relevancy grounds. I don't think Fairfax County is
4 anywhere near the coverage area and the fact that he sold the
5 laundromat in 1990 is totally irrelevant to any of the issues
6 under the case.

7 JUDGE LUTON: Well, the fact that Fairfax is nowhere
8 near the service area seems to me to be an irrelevant point.
9 It doesn't add anything to the case. Since it is an
10 objection, I'm prepared to strike it. Any reason that you
11 want to oppose that?

12 MR. FITCH: Yes, Your Honor. It shows the
13 laundromats can be sold or have been sold.

14 JUDGE LUTON: Motion is granted, stricken.

15 MR. SHUBERT: Next, Your Honor, on the same page 2
16 of Exhibit No. 1 in the first full paragraph on that page,
17 down 1, 2, 3, 4, 5 -- in the sixth line, the sentence
18 beginning with, "Consolidated Property Masters has already
19 indicated its willingness to assume the additional
20 responsibilities and will be hired prior to the initiation of
21 program tests." I object to that on the grounds of relevancy
22 and also that it is a variance to Mr. Fitch's integration
23 statement.

24 JUDGE LUTON: I think we can consider the
25 integration statement to be Mr. Willson's. We might as well.

1 That's been my ruling. It's not going to change. And the
2 remainder of your objection was what?

3 MR. SHUBERT: Relevancy and a variance to the
4 integration statement.

5 JUDGE LUTON: What is the variance?

6 MR. SHUBERT: It's not mentioned in the -- there's
7 nothing about it in the integration statement. In fact,
8 actually I'm -- there's another paragraph that I'm thinking
9 of.

10 MR. FITCH: Your Honor, it's not a variance.

11 JUDGE LUTON: Wait a minute. I think he's changed
12 his mind about the variance. The integration statement says
13 he will hire a professional management company. That's not
14 what this sentence says.

15 MR. FITCH: Your Honor, may I respond?

16 JUDGE LUTON: I don't have my copy of the
17 integration statement. Does somebody have an extra one that I
18 might use?

19 MR. SHUBERT: I've got one.

20 JUDGE LUTON: Well, I can't take yours. Apparently
21 we're going to discuss this at -- in some detail.

22 MR. SHUBERT: However, it's the only one I have, so
23 I'll have to share it with you.

24 MR. FITCH: Do you have a copy? Here's another
25 copy.

1 MR. SHUBERT: I would note, Your Honor, that during
2 discovery there were no documents produced on any of this.

3 MR. FITCH: Your Honor, I would note that that's
4 irrelevant.

5 MR. SHUBERT: Well, it's part of his integration
6 proposal. This runs to the effectuation of his integration
7 proposal.

8 MR. FITCH: Counsel, we produced documents that were
9 responsive to your request for production of documents.

10 MR. SHUBERT: The standard document production.

11 MR. FITCH: And the standard document production
12 request.

13 JUDGE LUTON: Please address your remarks to me
14 rather than --

15 MR. FITCH: I'm sorry.

16 JUDGE LUTON: -- across the room to one another.
17 The objection, as I understand it, is that the sentence on
18 page 2 which tells us that Consolidated Property Masters has
19 already indicated its willingness to do certain things and
20 will be -- and that it will be hired. That is not mentioned
21 in the integration statement?

22 MR. SHUBERT: It simply mentions he will hire a
23 professional management company, page 2, paragraph 2.

24 JUDGE LUTON: The copy I'm looking at says that he
25 contemplates hiring Consolidated Property Masters.

1 MR. SHUBERT: Yes. In the next sentence it does.

2 JUDGE LUTON: Which will be responsible for the
3 overall management of all three mobile homes. What is the
4 variance? I'm sorry. It's not clear to me.

5 MR. SHUBERT: All right. It -- I, I will withdraw
6 the argument on variance, Your Honor.

7 JUDGE LUTON: All right. Is there some other
8 objection to that particular language?

9 MR. SHUBERT: It says it's indicated a willingness.
10 I don't know how we're going to test that unless we call
11 Consolidated Property Masters.

12 JUDGE LUTON: Well, you may not be able to test it
13 as fully as it could otherwise be tested, but the witness is
14 on the stand. You can certainly ask him about it. I really
15 don't see that there's anything objectionable about that. If
16 -- whatever the objection was, it's either withdrawn or it's
17 overruled. I just don't see any difficulty with that.

18 MR. SHUBERT: My next objection, Your Honor, is two
19 sentences down, "Mr. Willson considers the company to be the
20 largest and best property management company in the area."

21 JUDGE LUTON: That's not relevant to anything in the
22 case, I believe.

23 MR. SHUBERT: And it's conclusory and hyperbole.

24 JUDGE LUTON: I'm going to strike it. Next?

25 MR. SHUBERT: Next, Your Honor, I move to strike

1 again page 2, the bottom paragraph on page 2 carrying over to
2 the top of page 3, that recites all of the information about
3 the time it takes him to visit, the relationship of these
4 parks, the driving time. I submit to you that, one, this is
5 at variance. None of this information was contained in the
6 integration statement and, two, it is an -- at an attempt or
7 is an attempt to upgrade their direct case --

8 MR. FITCH: Your Honor --

9 MR. SHUBERT: -- trying to reduce the amount of time
10 that the man spends involved with these projects.

11 MR. FITCH: Your Honor, let me just respond in
12 general to these arguments about variance to the integration
13 statement. An integration statement is not a direct case. If
14 it were, there wouldn't be any point in filing a direct case.
15 There is long -- and the fact of the matter is there is a long
16 history of direct cases being submitted which further amplify
17 statements made in one's integration statement. The fact of
18 the matter is in our integration statement we have clearly
19 stated what Mr. Willson's intentions were with regards to his
20 other businesses, how he operates them and the fact is that he
21 -- and the fact that he intends to dispose of some and have
22 others managed by a management company. The fact, the fact
23 that there's further detail provided in the direct case is not
24 a variance.

25 MR. SHUBERT: May I be heard, Your Honor?

1 JUDGE LUTON: Yes.

2 MR. SHUBERT: It is without question that in every
3 comparative case there comes a point in time where the
4 comparative case is cut off. If they're willing to stipulate
5 that none of this information is being submitted to be relied
6 on for any comparative purpose, I'll withdraw my objection,
7 but it is not contained in their comparative case. It is --
8 or in their integration statement. It is not contained in
9 their application. Therefore, Your Honor, I submit that it is
10 at variance and they are attempting a comparative upgrade.

11 JUDGE LUTON: What precisely are we talking about
12 again, which -- what language in the exhibit?

13 MR. SHUBERT: Oh, in the exhibit. Well, I'm trying
14 to compare it to the integration statement here. I'm talking
15 about that he -- I'm trying to make sure that I don't --
16 because the language is so intertwined. Actually, I believe
17 it is all new language. They're talking about the absentee
18 owner of three mobile parks, the time he spends at these
19 parks, whether he visits these parks once every two or three
20 months, the travel time that he does in between these parks.
21 These are all elements that are aimed at improving their
22 comparative case.

23 MR. FITCH: Your Honor, what --

24 JUDGE LUTON: Does it -- let me ask this. This is
25 coming through very sharply to me. In the integration

1 statement it says, "Mr. Willson anticipates he will be
2 required to spend no more than a total of five hours per week
3 on matters relating to these other business interests once the
4 management company is in place." My question to you, Mr.
5 Fitch, is whether the portion of the exhibit that is being
6 objected to simply provides a further specification of the
7 five hour total that we're talking about or does that talk
8 about something else?

9 MR. FITCH: This explains --

10 JUDGE LUTON: What does it explain that might be in
11 the, in the integration statement --

12 MR. FITCH: All right.

13 JUDGE LUTON: I guess is my question?

14 MR. FITCH: Okay. What this explains is Mr.
15 Willson's current involvement with his businesses. This is
16 what he does with his businesses. The integration statement
17 talks about -- it doesn't talk about what he currently does in
18 the detail that's provided here. Mr. Willson is not required
19 to state in his integration statement what he currently does
20 with his businesses. He's simply required to state whether he
21 intends to dispose of those businesses which is what he did.
22 In his direct case Mr. Willson has provided additional
23 information --

24 MR. SHUBERT: May I --

25 MR. FITCH: -- none of which is at variance, some of